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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2059

CARRIE J. SCHIMKE
2544 Pimlico Place
Alpine, CA 91901

A C C U S A T I O N

Respiratory Care Practitioner
License No. 22201

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about December 31, 2001, the Respiratory Care Board issued Respiratory Care Practitioner License No. 22201 to CARRIE J. SCHIMKE (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states, in pertinent part: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“...

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“...

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

“...

“(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

“... ”

1 7. Section 3752 of the Code states:

2 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
3 made to a charge of any offense which substantially relates to the qualifications,
4 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
5 the meaning of this article. The board shall order the license suspended or revoked, or
6 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
7 conviction has been affirmed on appeal or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a subsequent order under Section
9 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
10 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
11 accusation, information, or indictment.”

12 8. California Code of Regulations (“CCR”), title 16, section 1399.370, states:

13 “For the purposes of denial, suspension, or revocation of a license, a crime or act
14 shall be considered to be substantially related to the qualifications, functions or duties of
15 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
16 perform the functions authorized by his or her license or in a manner inconsistent with the
17 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
18 those involving the following:

19 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
20 abetting the violation of or conspiring to violate any provision or term of the Act.

21 “(b) Conviction of a crime involving fiscal dishonesty theft, or larceny.

22 “...”

23 COST RECOVERY

24 9. Section 3753.5, subdivision (a) of the Code states, in pertinent part:

25 “In any order issued in resolution of a disciplinary proceeding before the board,
26 the board or the administrative law judge may direct any practitioner or applicant found to have
27 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
28 investigation and prosecution of the case.”

1 /// section 487(a) and one count of forgery of name, in violation of Penal Code section
2 470(a).

3 SECOND CAUSE FOR DISCIPLINE

4 (Fraudulent, Dishonest, or Corrupt Act)

5 13. Respondent is further subject to disciplinary action under Code section
6 3750(j) and CCR, title 16, sections 1399.370 (a) and (b), in that she committed a fraudulent,
7 dishonest and corrupt act, as more particularly described in paragraph 12, above, which is
8 incorporated by reference as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

12 1. Revoking or suspending Respiratory Care Practitioner License No. 22201,
13 issued to CARRIE J. SCHIMKE;

14 2. Ordering Carrie J. Schimke to pay the Respiratory Care Board the costs of
15 the investigation and enforcement of this case, and if placed on probation, the costs of probation
16 monitoring; and

17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: March 2, 2007

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21 Original signed by Liane Zimmerman for:
22 STEPHANIE NUNEZ
23 Executive Officer
24 Respiratory Care Board of California
25 Department of Consumer Affairs
26 State of California
27 Complainant
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